

Claim 17 (twice amended). A packaging item according to Claim 16, wherein said packaging item is a packaging tray.

#### REMARKS

This application pertains to a novel packaging material comprising a polyolefin foam layer.

Claims 1-17 and 19-21 are pending.

Claims 1-17 and 19-21 stand rejected under 35 U.S.C. 112, second paragraph, for various reasons indicted more specifically in the Office Action. Each of the issues raised by this rejection have been carefully considered, and appropriate amendments have been made to address them.

With respect to Claims 15 and 16, is respectfully pointed out that Claim 15 is directed to a packaging material, whereas Claim 16 is directed to a packaging item. Although a packaging item is made from a packaging material, they are two different embodiments of the invention, and are properly claimed separately.

Claim 17, on the other hand, has now been made to depend from Claim 16.

It is believed that these amendments together with the foregoing comments obviate the rejection of Claims 1-17 and 19-21 under 35 U.S.C. 112, second paragraph,

and this rejection should accordingly now be withdrawn.

Turning now to the art rejection, Claims 1-17, 19 and 20 stand rejected under 35 U.S.C. 103(a) as obvious over Laurent, et. al.

It should be noted that an essential feature of Applicants' invention resides in the discovery that by maintaining the thickness of layer B at from  $1/6$  to  $1/2$  the thickness of layer A, a substantial and unexpected improvement in mechanical properties can be achieved without any increase in the thickness of the multilayer films, which can even be achieved where the total thickness is reduced (page 6, lines 18-34; page 9, table 3).

Note in particular the surprising results demonstrated by a comparison of Example 1 to the Comparative example. The films of Example 1 and the Comparative example were exactly the same in terms of their sequence of layers and the composition of each layer. However in the film of Example 1 layer B had a thickness of  $160\text{ }\mu\text{m}$ , which was  $1/5$  the thickness of layer A; whereas in the comparative example, layer B was only  $1/29$  the thickness of layer A. As shown, the film of Example 1, even though it was much thinner than the layer of the comparative example ( $1010\text{ }\mu\text{m}$  vs.  $1250\text{ }\mu\text{m}$ ) still had far better mechanical properties than the film of the comparative example.

The Examiner contends that:

*"...it is believed that adjusting the thickness ratio between these layers are within the ordinary skill of the art, motivated to provide suitable mechanical properties, such as stiffness, to the thermoformed tray, as*

*taught by Laurent"*

The Examiner's "belief" is totally unsubstantiated by any teaching or suggestion found in the prior art and in and of itself does not constitute evidence of obviousness. Nowhere can there be found any teaching or suggestion that the substantial improvement in mechanical properties demonstrated by Applicants' examples could be achieved by maintaining the total thickness of layers A + B and the relative thicknesses of layers A & B within the ranges recited in Applicants' claims.

In this regard, it should be noted that even when Laurent's bonding layer is at its maximum thickness (30  $\mu$ m) and his foamed layer is at its minimum thickness (0.5 mm) (see col. 3, lines 34-45) the ratio of the bonding layer thickness to the foamed layer thickness is far below Applicants' minimum of 1/6. Thus, there is no way that anyone reading Laurent could even "accidentally" arrive at Applicants' novel film.

Moreover, the tremendous improvement in the E-modulus and elongation at break that was achieved with Applicants' film, as compared to a thicker film having the same sequence of layers of the same composition, will be seen a totally surprising and unexpected by those skilled in the art.

It is therefore simply not possible for Laurent to render Applicants' claims obvious, and the rejection of Claims 1-17, 19 and 20 under 35 U.S.C. 103(a) as obvious over Laurent, et. al. should now be withdrawn.

In view of the present amendments and remarks it is believed that claims 1-17 and 19-21 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

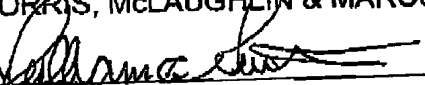
CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Appellants request that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

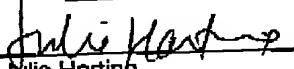
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I hereby certify that this correspondence is being transmitted via facsimile addressed to Mail Stop Non-Fee Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-150 on June 13, 2003

  
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Date: June 13, 2003

**MARKED-UP COPIES OF AMENDED CLAIMS  
SHOWING CHANGES RELATIVE TO PREVIOUS VERSIONS**

Claim 1 (twice amended). A multilayer film comprising the following sequence of layers:

- H) a [basis] base layer of foamed propylene homopolymers, copolymer or mixtures thereof,
- I) a layer [based on] comprising at least one of the polyolefins of the foam layer A[]],
- J) optionally a tie layer based on a polyolefin
- K) optionally an adhesive layer
- L) optionally a gas barrier layer, a flavortight barrier layer, or both,
- M) an adhesive layer,
- N) an optionally sealable or peelable surface layer,

whereby the total thickness of layers A[]] and B[]] ranges from 0.5 to 2 mm and the thickness of layer B[]] ranges from 1/6 to 1/2 of the thickness of layer A[]].

Claim 2 (twice amended). A multilayer film according to claim 1, wherein the total thickness of layers A[]] and B[]] ranges from 0.6 to 1.4 mm.

Claim 3 (twice amended). A multilayer film according to claim 1 wherein the

thickness of layer B[] ranges from 1/6 to 1/3 of the thickness of layer A[]].

Claim 4 (twice amended). A multilayer film according to Claim 1, wherein layer A[] is made of a foamed mixture of polypropylene with long chain branching and a propylene-ethylene-blockcopolymer.

Claim 5 (twice amended). A multilayer film according to Claim 1, wherein layer B[] is made of polypropylene or a propylene-ethylene-copolymer.

Claim 6 (twice amended). A multilayer film according to Claim 1, wherein layer C[] is made of a polyolefin based on [the] a monomer [that is the main monomer of] which is present in a predominant amount in the polyolefins of foam layer A[]].

Claim 8 (twice amended). A multilayer film according to Claim 1, wherein layer E[] is present and is made of ethylene-vinylalcohol copolymer.

Claim 9 (twice amended). A multilayer film according to Claim 1, wherein layer G[] is made of a sealable polymer and optionally contains additives.

Claim 10 (twice amended). A multilayer film according to Claim 9, wherein layer G[] is made of a low density polyethylene or an ionomer.

Claim 11 (twice amended). A multilayer film according to Claim 1, wherein layer G[] is made of a peelable polymer and optionally contains additives.

Claim 12 (twice amended). A multilayer film according to Claim 11, wherein layer G[] is made of a mixture of low density polyethylene and a polybutylene.

Claim 13 (twice amended). A multilayer film according to Claim 1, wherein the total thickness of layers C[] to G[] ranges from 20 to 70  $\mu\text{m}$ .

Claim 17 (twice amended). A packaging item according to Claim 16, wherein said packaging item is a packaging tray [made of a film according to Claim 1].